

Title	Child Support: Low-Income Adjustment and Set-Aside of Order Based on Presumed Income (revise forms DV-160, FL-640, and FL-692)
Summary	Assembly Bill 1752 recently made changes in the law concerning the low-income adjustment and the setting aside of support orders based on presumed income. These changes require revision of forms DV-160, FL-640, and FL-692.
Source	Family and Juvenile Law Advisory Committee Hon. Mary Ann Grilli and Hon. Susan D. Huguenor, Co-chairs
Staff	Ruth McCreight, 415-865-7666, ruth.mccreight@jud.ca.gov Rita Mah, 415-865-7670, rita.mah@jud.ca.gov
Discussion	<p>In current form DV-160, <i>Child Support Order (Domestic Violence Prevention)</i>, item 11, the court is required to indicate whether a low-income adjustment is ordered and what the bases for the order are. Amended Family Code section 4055(b)(7) has established a rebuttable presumption that an obligor whose net disposable income is less than \$1,000 a month is entitled to a low-income adjustment. The court no longer needs to state its reasons for ordering the adjustment, and the form should be revised accordingly.</p> <p>The statutory period for bringing a motion to set aside a support order based on presumed income, as set forth in Family Code section 17432(f), has been increased from 90 days to one year. In form FL-640, <i>Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)</i>, the notice box at the top of the form, as well as the information sheet, should be revised to conform to the statutory change.</p> <p>Family Code section 17432(d) has been amended to provide that an income and expense declaration, a simplified financial statement, or other information concerning income for relevant years must be filed with this motion. Form FL-640 and its instructions would be revised to conform to the statutory change. References to tax returns and the Answer have been eliminated from the statute; thus, similar references should be deleted from the form and information sheet. Instructions pertaining to tax returns are incorporated into new form FL-150, <i>Income and Expense Declaration</i>, and form FL-155, <i>Financial Statement (Simplified)</i>.</p> <p>Family Code section 17432(g) has been amended to provide that if the</p>

local child support agency determines that the order based on presumed income qualifies for a set-aside, the agency must bring a motion for relief. Form FL-640 would be revised to enable the local child support agency or any other party to use it to bring such a motion. The term “district attorney” in the notice portion of the form would be changed to “local child support agency” in conformity with previous technical changes. The information sheet would clarify that it is for the use of parents seeking relief. The information sheet would also direct parents to check with the local rules of court for any local requirements.

Finally, because a low-income adjustment is now rebuttably presumed, form FL-692, *Minutes and/or Order or Judgment (Governmental)*, item 14g, should be revised to delete the requirement that the court state its reasons for ordering the low-income adjustment.

AB 1752 is attached at pages 3–7. The proposed revised forms are attached at pages 8–22.

Attachments

DEERING'S CALIFORNIA CODES ANNOTATED
ADVANCE LEGISLATIVE SERVICE
© 2003 BANCROFT-WHITNEY COMPANY

2003 REGULAR SESSION
CHAPTER 225 (Assembly Bill No. 1752)

2003 Cal ALS 225; 2003 Cal AB 1752;
Stats 2003 ch 225

Approved by Governor August 9, 2003. Filed
with Secretary of State August 11, 2003.
Urgency legislation is effective immediately,
Non-urgency legislation will become effective
January 1, 2004

DIGEST:

**AB 1752, Committee on Budget. Human
services.**

(1) Existing law establishes uniform guidelines for determining child support. In certain cases, the court is required to rule on whether a low-income adjustment shall be made to the amount calculated under these guidelines. If the court allows that adjustment, existing law requires the court to state the reasons supporting the adjustment in writing and on the record.

This bill would provide for a rebuttable presumption that the child support obligor is entitled to a low-income adjustment, as specified. The bill would also delete the requirement that the court state the reasons supporting the adjustment.

.....

(3) Existing law authorizes a local child support agency to establish, modify, and enforce child support obligations and provides for a simplified complaint form. If the support obligor's income or income history is unknown to the agency, the complaint form is required to inform the obligor that income shall be presumed to be in a specified amount.

This bill would instead provide that the income shall be presumed to be the amount of the minimum wage, as specified.

(4) Existing law authorizes a court to set aside a child support order under specified conditions. A motion for relief pursuant to that provision is required to be filed within 90 days of the first collection of money by the local child support agency or the obligee.

This bill would revise the conditions under which the order may be set aside and would extend the time period for filing a motion for relief to one year. The bill would also require the local child support agency to check sources of income and make a determination whether the order qualifies for set aside. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

The bill would also require the Judicial Council to review and modify any relevant forms for purposes of these provisions, as specified.

(5) Existing law authorizes a local child support agency to collect a delinquent child support obligation by issuing a levy, as specified. Existing law also authorizes the agency to transfer child support delinquencies to the Franchise Tax Board for collection. When a child support delinquency is

transferred to the Franchise Tax Board, as specified, the amount of the delinquency may be collected by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent income tax liability. Existing law authorizes the Franchise Tax Board to require various persons and depository institutions having in their possession or under their control things of value belonging to a taxpayer to withhold the amount of any tax, interest, or penalties due from the taxpayer and transmit that amount to the Franchise Tax Board.

This bill would require, when a local child support agency issues a levy upon, or when the Franchise Tax Board requires any employer, person, or other specified entity to withhold the amount of, a financial asset, as defined, for the purpose of collecting a delinquent child support obligation, the person, financial institution, or securities intermediary, as defined, in possession or control of the financial asset to liquidate the asset in a commercially reasonable manner within 20 days of the issuance of the levy or the notice to withhold. The bill would also require the person, financial institution, or securities intermediary to transfer the proceeds of the liquidation to the local child support agency or the Franchise Tax Board, as applicable, within 5 days of liquidation.

The bill would also require the Department of Child Support Services to develop a program pursuant to which the department may accept offers in compromise of child support arrears, as specified, until January 1, 2007. The bill would require the department to report to the Legislature on the results of the program by June 30, 2006.

The bill would specifically provide that the assets of an obligor held by a financial institution are subject to levy. However, the bill would create a specified exemption.

...

NOTICE: [A> Uppercase text within these
symbols is added <A]

* * * indicates deleted text

...

**[*1] SECTION 1. Section 4055 of the Family
Code is amended to read:**

§ 4055.

(a) The statewide uniform guideline for determining child support orders is as follows: $CS = K [HN - (H\%) (TN)]$.

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month		K
\$ 0 - 800		$0.20 + \text{TN}/16,000$
\$ 801 - 6,666		0.25
\$ 6,667 - 10,000		$0.10 + 1,000/\text{TN}$
Over \$ 10,000		$0.12 + 800/\text{TN}$

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is \$ 1,000, $K = (1 + 0.20) \times 0.25$, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is \$ 1,000, $K = (2 - 0.80) \times 0.25$, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children. H% shall not be set as described above if the moving party in a default proceeding is the noncustodial parent or if the party who fails to appear after being duly noticed is the custodial parent. A statement by the party

who is not in default as to the percentage of time that the noncustodial parent has primary physical responsibility for the children shall be deemed sufficient evidence.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars (\$ 1,000), * * * [A] THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE OBLIGOR IS ENTITLED TO <A> a low-income adjustment * * *. The * * * [A] PRESUMPTION MAY BE REBUTTED BY EVIDENCE SHOWING THAT THE APPLICATION OF THE LOW-INCOME ADJUSTMENT WOULD BE UNJUST AND INAPPROPRIATE IN THE PARTICULAR CASE. IN DETERMINING WHETHER THE PRESUMPTION IS REBUTTED, THE COURT SHALL CONSIDER <A> the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. * * * [A] THE <A> low-income adjustment shall * * * [A] REDUCE <A> the child support amount otherwise determined under this section * * * by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000. * * *

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases in which there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) If a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

SECTION 3. Section 17400 of the Family Code is amended to read:

§ 17400.

(a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and,

when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(c) Actions brought by the local child support agency to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The local child support agency's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act ([42 U.S.C. Sec. 651](#) et seq.), the effective date of the modification or revocation shall be as prescribed by federal law ([42 U.S.C. Sec. 666\(a\)\(9\)](#)), or any subsequent date.

(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. **If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed * * * [A] TO BE THE AMOUNT OF THE MINIMUM WAGE, AT 40 HOURS PER WEEK, ESTABLISHED BY THE INDUSTRIAL WELFARE COMMISSION PURSUANT TO SECTION 1181.11 OF THE LABOR <A> Code unless information concerning the support obligor's income is provided to the court.** The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense

declaration or simplified financial statement with the answer, but shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the local child support agency or the Attorney General in all cases brought under this section or Section 17404.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 17432 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(f) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the agencies established by this section a notice, in clear and simple language prescribed by the Director of Child Support Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals, whether or not they are recipients of public assistance.

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order* * * [A] HAS <A] the same force and effect as a like or similar order under this code.

(2) The local child support agency shall file a motion for an order for temporary support within the following time limits:

(A) If the defendant is the mother, a presumed father under Section 7611, or any father where the child is at least six months old when the defendant files his or her answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

(3) If more than one child is the subject of the action,

the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

(4) If the local child support agency fails to file a motion for an order for temporary support within time limits specified in this section, the local child support agency shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

(6) Nothing in this section * * * otherwise * * * [A] LIMITS <A] the ability of the local child support agency from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(h) As used in this article, "enforcing obligations" includes, but is not limited to, [A] ANY OF THE FOLLOWING: <A]

(1) The use of all interception and notification systems operated by the department for the purposes of aiding in the enforcement of support obligations * * * [A] . <A]

(2) The obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process * * * [A] . <A]

(3) The initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance * * * [A] . <A]

(4) The response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor * * * [A] . <A]

(5) The transfer of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

(i) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for the purposes of Title IV-D of the Social Security Act ([42 U.S.C. Sec. 651](#) et seq.).

(2) Nothing in this section * * * [A] LIMITS <A] the authority of the local child support agency granted by other sections of this code or otherwise granted by law, except to the extent that the law is inconsistent with the transfer of delinquent child support to the Franchise Tax Board.

(k) In the exercise of the authority granted under this article, the local child support agency may intervene,

pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under this code, or other proceeding in which child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the local child support agency may request any relief that is appropriate that the local child support agency is authorized to seek.

(l) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

(m) As used in this article, medical support activities that the local child support agency is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(n) (1) Notwithstanding any other law, venue for an action or proceeding under this division shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(o) The local child support agency of one county may appear on behalf of the local child support agency of any other county in an action or proceeding under this part.

[*4] SECTION 4. Section 17432 of the Family Code is amended to read:

§ 17432.

(a) In any action filed by the local child support agency pursuant to Section 17400, 17402, or 17404, the court may, on any terms that may be just, relieve the defendant from that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in subdivision (d) of Section 17400

and that were entered after the entry of the default of the defendant under Section 17430. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the defendant's income was substantially different for the period of time during which judgment was effective compared with the income the defendant was presumed to have. A "substantial difference" means that amount of income that would result in an order for support that deviates from the order entered by default by * * *[A] 10 <A] percent or more. * * *

(d) Application for relief under this section shall be * * * filed together with an income and expense declaration or simplified financial statement * * * [A] OR OTHER INFORMATION CONCERNING INCOME <A] for any relevant years. The Judicial Council may combine the application for relief under this section and the proposed answer into a single form.

(e) The burden of proving that the actual income of the defendant deviated substantially from the presumed income shall be on the * * * [A] PARTY SEEKING TO SET ASIDE THE ORDER <A].

(f) A motion for relief under this section shall be filed within * * * [A] ONE YEAR <A] of the first collection of money by the local child support agency or the obligee. The * * * [A] ONE-YEAR <A] time period shall run from the date that the local child support agency receives the first collection * * * .

(g) [A] WITHIN THREE MONTHS FROM THE DATE THE LOCAL CHILD SUPPORT AGENCY RECEIVES THE FIRST COLLECTION FOR ANY ORDER ESTABLISHED USING PRESUMED INCOME, THE LOCAL CHILD SUPPORT AGENCY SHALL CHECK ALL APPROPRIATE SOURCES FOR INCOME INFORMATION, AND IF INCOME INFORMATION EXISTS, THE LOCAL CHILD SUPPORT AGENCY SHALL MAKE A DETERMINATION WHETHER THE ORDER QUALIFIES FOR SET ASIDE UNDER THIS SECTION. IF THE ORDER QUALIFIES FOR SET ASIDE, THE LOCAL CHILD SUPPORT AGENCY SHALL BRING A MOTION FOR RELIEF UNDER THIS SECTION. <A]

[A] (H) <A] In all proceedings under this section, before granting relief, the court shall consider the amount of time that has passed since the entry of the order, the circumstances surrounding the defendant's default, the relative hardship on the child or children to whom the duty of support is owed, the caretaker parent, and the defendant, and other equitable factors that the court deems appropriate.

* * * [A] (I) <A] If the court grants the relief requested, the court shall issue a new child support order using the appropriate child support guidelines currently in effect. The new order shall have the same commencement date as the order set aside.

[A] (J) THE JUDICIAL COUNCIL SHALL REVIEW AND MODIFY ANY RELEVANT FORMS FOR PURPOSES OF THIS SECTION. ANY MODIFICATIONS TO THE FORMS SHALL BE EFFECTIVE JULY 1, 2004. PRIOR TO THE IMPLEMENTATION OF ANY MODIFIED JUDICIAL COUNCIL FORMS, THE LOCAL CHILD SUPPORT AGENCY OR CUSTODIAL PARENT MAY FILE ANY REQUEST TO SET ASIDE A DEFAULT JUDGMENT UNDER THIS SECTION USING JUDICIAL COUNCIL FORM FL-680 ENTITLED "NOTICE OF MOTION (GOVERNMENTAL)" AND FORM FL-684 ENTITLED

"REQUEST FOR ORDER AND SUPPORTING DECLARATION (GOVERNMENTAL)." <A]

DV-160**Child Support Order**

Case Number: _____

☒ This form is attached to DV-130, Item 9.1 Your name: _____ ☐ Mom ☐ Dad2 Other parent's name: _____ ☐ Mom ☐ Dad

3 Other (name): _____

The court used the information below to calculate child support.☐ A printout of a computer calculation is attached. (Skip to 8 if this printout is attached, and do not complete 4 to 2).4 ☐ **Monthly income**

	Gross income	Net income	Capable of earning	TANF/CalWORKS
Mom \$	_____	\$ _____	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
Dad \$	_____	\$ _____	\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

5 ☐ **Low-Income Adjustment** range of _____ applies
to ☐ Mom ☐ Dad who earns less than \$1,000 per month after taxes.6 ☐ **Children of Mom and Dad listed in 1 and 2:**

a. Number of children covered by this order: _____

b. Those children spend _____% of time with Mom and _____% with Dad.

7 ☐ **Hardships** considered by the court:

	Mom	Dad	Explain or attach explanation
a. <input type="checkbox"/> Support for other minor children	\$ _____	\$ _____	_____
b. <input type="checkbox"/> Extraordinary medical expenses	\$ _____	\$ _____	_____
c. <input type="checkbox"/> Catastrophic losses	\$ _____	\$ _____	_____
d. <input type="checkbox"/> Other (specify): _____			_____

8 ☐ The **Total guideline calculation** for all children (not including additional support) is \$ _____9 ☐ A **non-guideline order** is appropriate instead of the guideline calculation in 8. This order does not meet the child support guideline set forth in Family Code section 4055.10 ☐ **Other findings:** _____

_____**This is a Court Order.**

Your name: _____

Case Number: _____

The Court Orders:

11 ☐ **Low-income Adjustment**

Based on the law and facts of this case:

- a. ☐ There will be no low-income adjustment based upon *(specify)*: _____
- b. ☐ There will be a low income adjustment of \$ _____

12 ☐ A **Non-Guideline Order** of \$ _____ per month is ordered instead of the guideline calculation in This order does not meet the child support guideline set forth in Family Code section 4055.
Form FL-342(A) (Non-Guideline Child Support Findings Attachment) is attached.

13 ☐ **Basic child support**

☐ **Total child support order** is \$ _____ for all children listed below.

- a. ☐ Mom ☐ Dad will pay child support starting *(date)*: _____ for:

Child's Name	Date of Birth:	Monthly Amount	Payable to:
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____

- b. Support must be paid to: ☐ Mom ☐ Dad ☐ Local Child Support Agency

- ☐ By the 1st of each month
- ☐ 50% on the 1st and 50% on the 15th of each month
- ☐ By earnings assignment order (order to withhold income)
- ☐ Other *(specify)*: _____

14 ☐ **Additional child support** (included in **13** above)

(Write the specific amount. If the specific amount is not available, enter a percentage.)

a. Costs	Mom Pays:	Dad Pays:	Other Arrangements:
<input type="checkbox"/> Child-care expenses	\$ _____ or _____ %	\$ _____ or _____ %	_____
<input type="checkbox"/> Children's uninsured health-care expenses	\$ _____ or _____ %	\$ _____ or _____ %	_____
<input type="checkbox"/> Children's educational/other special needs	\$ _____ or _____ %	\$ _____ or _____ %	_____
<input type="checkbox"/> Travel expenses for visitation	\$ _____ or _____ %	\$ _____ or _____ %	_____
<input type="checkbox"/> Other <i>(specify)</i> : _____	\$ _____ or _____ %	\$ _____ or _____ %	_____

- b. These support payments must be made to: ☐ Mom ☐ Dad ☐ Local child support agency

- ☐ By the 1st of each month
- ☐ 50% on the 1st and 50% on the 15th of each month
- ☐ By earnings assignment order (order to withhold income)
- ☐ Other *(specify)*: _____

- ☐ All payments to the Local Child Support Agency (LCSA) must be mailed to:

This is a Court Order.



Your name: _____

Notice:

If you are late in paying child support, interest on overdue amounts will add up at the "legal" rate, which is currently 10% per year.

This support order will continue until:

- There is a different court order or
- The child marries, dies, turns 19, or is emancipated or
- The child turns 18 and is not a full-time high school student or

15 ☐ **Health-Care Expenses**

- a. ☐ Mom ☐ Dad will provide and keep health insurance for the children in Item 13a if it is available at no or reasonable cost through work or a group plan, including group plans available through self-employment. Both parents will cooperate to complete health-care claims as stated on **page 5** (Notice of Rights and Responsibilities: Health-Care Costs and Reimbursement Procedures). Parents may have peaceful written contact with each other in order to complete insurance claims.
- b. ☐ No health insurance is available to ☐ Mom ☐ Dad at a reasonable cost now.
- c. ☐ The parent with insurance will give the right of reimbursement to the other parent.
- d. ☐ Other (*specify*): _____

16 ☐ **Earnings assignment order (order to withhold income)**

- a. ☐ There will be a **form FL-195/OMB No. 0970-0154**, Order Notice to Withhold Income for Child Support.
Note: The parent paying child support must pay support to the other parent until support payments are deducted from the paying parent's wages, and must pay any support owed that is not covered by the earnings assignment.
- b. ☐ If the parent paying support is more than _____ days late in making a payment, the earnings assignment order will be served.
- c. ☐ There will be a **Qualified Medical Child Support Order** payable to ☐ Mom ☐ Dad.

17 ☐ **Employment Search Order**

- ☐ Mom ☐ Dad is ordered to seek employment ☐ as stated in the attachment ☐ as follows:

18 ☐ **Other orders**

This is a Court Order.

Your name: _____

Case Number: _____

19

These **required attachments** are attached and are a part of this order:

- ☒ Notice of Rights and Responsibilities: Health-Care Costs and Reimbursement Procedures (pages 5 and 6)
- ☒ Information Sheet on Changing a Child Support Order (pages 7 and 8)

20

Child Support Registry

The parents must notify the local child support agency in writing within 10 days of any change in residence or employment.

This is a Court Order.



If you have a child support order that includes a provision for the reimbursement of a portion of the child's or children's health-care costs and those costs are not paid by insurance, the law says:

1. Notice. You must give the other parent an itemized statement of the charges that have been billed for any health-care costs not paid by insurance. You must give this statement to the other parent within a reasonable time, but no more than 30 days after those costs were given to you.

2. Proof of full payment. If you have already paid all of the uninsured costs, you must (1) give the other parent proof that you paid them and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

3. Proof of partial payment. If you have paid only your share of the uninsured costs, you must (1) give the other parent proof that you have paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health-care provider, and (3) give the other parent the information necessary for that parent to be able to pay the bill.

4. Payment by notified parent. If you receive notice from a parent that an uninsured health-care cost has been incurred, you must pay your share of that cost within the time the court orders; or, if the court has not specified a period of time, you must make payment either (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health-care provider, (3) according to a schedule agreed to in writing by you and the other parent, or (4) according to a schedule adopted by the court.

5. Disputed charges. If you dispute a charge, you may file a motion in court to resolve the dispute, but only if you pay that charge before filing your motion. If you claim that the other party has failed to

reimburse you for a payment, or the other party has failed to make a payment to the provider after proper notice has been given, you may file a motion in court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable. The court may award attorney fees against a party who has been unreasonable.

6. Court-ordered insurance coverage. If a parent provides health-care insurance as ordered by the court, that insurance must be used at all times to the extent that it is available for health-care costs.

a. Burden to prove. The party claiming that the coverage is inadequate to meet the child's needs has the burden of proving that to the court.

b. Cost of additional coverage. If a parent purchases health-care insurance in addition to that ordered by the court, that parent must pay all the costs of the additional coverage. In addition, if a parent uses alternative coverage which costs more than the coverage provided by court order, that parent must pay the difference.

7. Preferred health-care providers. If the court-ordered coverage designates a preferred health-care provider, that provider must be used at all times, consistent with the terms of the health insurance policy. When any party uses a health-care provider other than the preferred provider, any health-care costs that would have been paid by the preferred health-care provider if that provider had been used will be the sole responsibility of the party incurring those costs.

Si usted tiene una orden de manutención de menores que disponga la devolución de costos incurridos por servicios de salud para menores y costos no cubiertos por el seguro médico, la ley dice lo siguiente:

1. Aviso. Se debe dar al otro padre una factura detallada relacionando los costos cobrados por servicios de salud que no estén cubiertos por seguro médico. Esta factura se le debe dar al otro padre con antelación razonable y no más tarde de 30 días después de haber recibido dichos cobros de pago.

2. Comprobante de pago total. Si usted ya pagó todos los costos de salud correspondientes a individuos no asegurados, deberá: (1) proporcionar al otro padre el comprobante de haber pagado y (2) pedirle al otro padre que le pague la porción de los costos que al otro padre le corresponda, según la orden del tribunal.

3. Comprobante de pago parcial. Si sólo pagó su porción de los costos no cubiertos por el seguro, debe: (1) darle al otro padre un comprobante indicando que ya pagó dicha porción, (2) pedir al otro padre que pague directamente al proveedor de servicios médicos la parte de los costos que al otro padre le corresponda y (3) darle al otro padre la información necesaria para que pague la factura.

4. Pago que le corresponde al padre notificado. Si usted recibe notificación del otro padre indicando costos incurridos por servicios de salud para individuos sin seguro, deberá pagar la porción que le corresponde a usted dentro del plazo ordenado por el tribunal, o si el tribunal no especifica un plazo, usted deberá pagar dichos costos, ya sea, (1) a más tardar en 30 días, desde la fecha en que recibió la notificación sobre los costos por pagar, (2) según un horario acordado por escrito entre usted y el otro padre o (4) según el horario adoptado por el tribunal.

5. Cuando se disputan los costos. Si usted disputa un costo, puede presentar al tribunal una moción (o pedimento) para resolver la disputa. Sólo podrá hacer esto, si paga el costo antes de presentar la moción. Si su reclamo consiste en que la otra parte no le ha pagado a usted por un costo, o que no le ha pagado

al proveedor de servicios de salud después de la notificación apropiada, usted puede presentar una moción ante el tribunal para resolver la disputa. El tribunal asumirá que si los costos ya se han pagado, dichos costos han sido razonables. Si una persona se comporta de una manera que no sea razonable, el tribunal puede imponerle que pague honorarios de abogado.

6. Cobertura de seguro por orden de tribunal. Si un adre tiene seguro de salud por orden del tribunal, ese seguro se usará todo el tiempo, siempre que esté disponible para cubrir los costos de servicios de salud.

a. Responsabilidad de comprobar. La responsabilidad de comprobar ante el tribunal que la cobertura de servicios de salud es inadecuada para los menores recae sobre la parte que reclama que es inadecuada.

b. Costos de cobertura adicional. Si uno de los padres compra un seguro de salud adicional al que haya sido ordenado por el tribunal, dicho padre deberá pagar todo el costo de la cobertura adicional. Y si uno de los padres usa una manera alterna para cubrir gastos médicos que cueste más que la cobertura dispuesta por el tribunal, dicho padre tendrá que pagar la diferencia.

7. Proveedor preferido para servicios de salud.

Si la orden del tribunal especifica un proveedor preferido para servicios de salud, dicho proveedor deberá usarse siempre, según los términos de la póliza del seguro de salud. Si una de las partes decide usar un proveedor que no sea el preferido e incurre costos que podrían haber sido cubiertos por el proveedor preferido si se hubieran utilizado sus servicios, dicha parte asumirá la responsabilidad de cubrir los costos incurridos.

General Information The court has just made a child support order in your case. This order will remain the same unless a party to the action requests that the support be changed (modified). An order for child support can be modified only by filing a motion to change child support and serving each party involved in your case. If both parents and the local child support agency (if it is involved) agree on a new child support amount, you can complete, have all parties sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* (form FL-350) or *Stipulation and Order (Governmental)* (form FL-625).

When a Child Support Order May Be Modified The court takes several things into account when ordering the payment of child support. First, the number of children is considered. Next, the net incomes of both parents are determined, along with the percentage of time each parent has physical custody of the children. The court considers both parties' tax filing status and may consider hardships, such as a child of another relationship. An existing order for child support may be modified when the net income of one of the parents changes significantly, the parenting schedule changes significantly, or a new child is born.

Examples

■ You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10% interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.

■ You are currently receiving \$300 per month in child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.

■ You are paying child support based upon having physical custody of your children 30% of the time. After several months it turns out that you actually have physical custody of the children 50% of the time. You may file a motion to modify child support to a lower amount.

How to Modify an Existing Child Support Order

1. Obtain and fill out the modification forms.

The forms are available from the court clerk, a Family Law Facilitator, your local law library, the Judicial Council's

Web site (www.courtinfo.ca.gov), and various legal publishers. You will need to complete the following forms:

■ *Order to Show Cause* (form FL-300) or *Notice of Motion* (form FL-301) and *Application for Order and Supporting Declaration* (form FL-310) or *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support* (form FL-390) or *Order to Show Cause (Governmental)* (form FL-683) or *Notice of Motion (Governmental)* (form FL-680) or *Request for Order and Supporting Declaration (Governmental)* (form FL-684) if your case is open with the local child support agency.

■ *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155).

2. File the forms and obtain a hearing date from the court clerk. Write the hearing date on the modification forms. You will have to pay a filing fee. If you cannot afford a filing fee, you can request a waiver of it by filing an *Application for Waiver of Court Fees and Costs* (form 982(a)(17)).

3. "Serve" the modification forms on the other parent and, if it is involved, the local child support agency.

"Service" means "legally" delivering a copy of the papers. The forms generally must be served no later than 21 calendar days before the hearing if they are delivered in person. The delivery can normally be done by mail, but then it must be done at least 26 calendar days before the hearing. All service must be done by a person other than you who is at least age 18. This person must serve all papers you completed for the court as well as a blank, *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320) and blank *Income and Expense Declaration (Family Law)* (form FL-150) or *Financial Statement (Simplified)* (form FL-155).

4. File a *Proof of Service* (form FL-330 or FL-335) with the court clerk to show that the court papers were served on the other parent and, if it is involved, the local child support agency.

5. Attend the court hearing.

Bring your last federal tax return and your last two months pay stubs to the court hearing. The judge will review your modification forms and the other parent's response, listen to both of you, and make an order. You should then prepare a *Findings and Order After Hearing* (form FL-340) with *Child Support Information and Order Attachment* (form FL-342).

If you cannot complete these forms by yourself, help is available. Contact the Family Law Facilitator in your county or the Lawyer Referral Service of your local bar association, or consult the Yellow Pages of your telephone book under "Attorneys."

Información general

El tribunal acaba de dar una orden judicial sobre manutención de menores en esta causa. Esta orden permanecerá en efecto, a menos que alguna de las partes de la causa pida que se modifique. Sólo se puede modificar una orden de manutención de menores si se presenta ante el tribunal una moción (o pedimento) sobre modificación de manutención y si se da una copia de dicha moción a las partes interesadas en la causa. Si ambos padres llegan a un común acuerdo sobre una suma y si la agencia local que vigila la manutención de menores también acepta el acuerdo (si dicha agencia participa), se puede llenar y hacer que cada una de las partes firme una *Estipulación para Establecer o Modificar una Orden de Manutención de Menores* (formulario FL-350) o llenar y hacer que cada una de las partes firme una *Estipulación y Orden* (Documento gubernamental) (formulario FL-625).

¿Cuándo se puede modificar una orden de manutención de menores?

El juez toma varios factores en consideración cuando emite una orden judicial sobre el pago de manutención de menores. Primero, considera, el número de hijos. Luego, determina los ingresos de ambos padres y el porcentaje del tiempo que cada padre asume la custodia física de los hijos. El tribunal estudia el estado tributario (pago de impuestos) de ambas partes y puede tener en cuenta factores de dificultad económica, tales como la existencia de hijos de otra relación. Se puede modificar la orden sobre manutención de menores si ocurre un cambio considerable en los ingresos netos de uno de los padres, un cambio considerable en el tiempo que los menores pasan con cada uno de los padres, o cuando nace un nuevo hijo.

Ejemplos:

Si a usted se le ha ordenado pagar \$500 mensuales de manutención de menores y luego pierde su empleo. Continuará debiendo \$500 mensuales, más el 10% de intereses sobre la suma de manutención debida, a menos que presente una moción pidiendo que se modifique y se reduzca la suma de manutención y que el tribunal ordene dicha reducción.

Si usted está recibiendo \$300 mensuales por manutención de menores provenientes del otro padre y los ingresos de ese padre aumentan considerablemente, usted continuaría recibiendo \$300 mensuales, a menos que usted presente una moción para modificar la orden y que el tribunal ordene el aumento de la suma de manutención de menores.

Si paga manutención de menores basándose en que pasa un 30% de tiempo asumiendo la custodia parcial de sus hijos y después de varios meses, resulta que en efecto pasa el 50% del tiempo a cargo de la custodia física de sus hijos, en dado caso, podrá presentar una moción pidiendo que se reduzca la suma de manutención.

¿Cómo modificar una orden judicial existente sobre manutención de menores?

1. Obtenga y llene los formularios para pedir las modificaciones.

Puede pedirlos en la secretaría del tribunal o se los puede pedir al asesor legal del tribunal de familia. También, puede encontrar los formularios en la página de Internet del Concejo Judicial (www.courtinfo.ca.gov) o puede comprarlos a diversos editores de materiales legales. Los siguientes son los formularios que hay que llenar:

• *Orden para dar Razones* (formulario FL-300) • *Aviso de Moción* (formulario FL-301) y *Solicitud para Orden y Declaración Que respalda la solicitud* (formulario FL-310) • *Aviso de Moción y Moción Simplificada para Modificación de Orden de Manutención de Menores* (formulario FL-390) • *Orden para dar Razones (Documento gubernamental)* (formulario FL-683) • *Aviso de Moción (Documento gubernamental)* (formulario FL-680) • *Petición para Orden y Declaración que Respalda la Petición (Documento gubernamental)* (formulario FL-684), si su caso está abierto en la agencia local que vigila la manutención de menores.

• *Declaración de Ingresos y Gastos* (formulario FL-150) • *Declaración Financiera (Simplificada)* (formulario FL-155).

2. Presente los formularios en la secretaría del tribunal y pida una fecha de audiencia.

Escriba la fecha de la audiencia en los formularios que piden las modificaciones. Tendrá que pagar al presentar los documentos en la secretaría. Si no tiene los medios para pagar, puede pedir que le exoneren del pago llenando el formulario *Solicitud para Exoneración de Costos de Tribunal* (formulario 982(a)(17)).

3. "Entregue la notificación" de los formularios de modificación.

Entregue dicha notificación al otro padre y a la agencia local que vigila la manutención de menores, si dicha agencia participa en el caso.

"Entregar la notificación" significa hacer entrega de una copia de los documentos, "según lo pide la ley". Si la notificación se entrega en persona, normalmente debe hacerse a más tardar 21 días calendarios antes de la audiencia. Por lo general, la notificación se puede entregar por correo, pero en ese caso, debe enviarse a más tardar 26 días calendarios antes de la audiencia. De todas maneras, la entrega la tiene que hacer una persona que tenga por lo menos 18 años de edad y que no sea usted mismo. Quien entregue la notificación debe entregar también todos los documentos que usted haya presentado al tribunal y entregar además un formulario en blanco de *Contestación a Una Orden Judicial* (formulario FL-320) y un formulario en blanco de *Declaración de Ingresos y Gastos (Tribunal de Familia)* (formulario FL-150) o un formulario de *Declaración Financiera (Simplificada)* (formulario FL-155).

4. Presente en la secretaría del tribunal el *Comprobante de Notificación* (formularios FL-330 o FL-335) para comprobar que los documentos fueron entregados al otro padre y a la agencia local que vigila la manutención de menores, si dicha agencia participa.

5. Asista a la audiencia ante el tribunal.

Traiga a la audiencia ante el tribunal sus dos últimas declaraciones de impuestos y sus tres talonarios de pago más recientes.

El juez estudiará los formularios que piden la modificación y la respuesta del otro padre, escuchará a ambas partes y emitirá una orden judicial. A usted le corresponde luego preparar el formulario *Conclusiones y Orden Posterior a la Audiencia* (formulario FL-340) con el Anexo *Información y Orden Sobre Manutención de Menores* (formulario FL-342).

Si no puede llenar estos formularios por sí mismo, puede pedir ayuda. Vaya donde el asesor legal del tribunal de familia de su condado, consulte la lista de referencias del colegio de abogados local o busque en las "páginas amarillas" del directorio telefónico bajo la palabra "attorneys" que significa "abogados" en inglés.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>):		TELEPHONE NO.:	FOR COURT USE ONLY DRAFT 5 12/11/03
ATTORNEY FOR (<i>Name</i>):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:			
NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME			CASE NUMBER:

If the support order is based on presumed income, you may file this motion and ask the court to cancel (set aside) the support order. If the court agrees with you, the court will issue another order based on the actual income, earning capacity, or income allowable by law. *You must file the original copy of this motion and the attachments specified in item 4 below with the court clerk within one year from the date the first collection of support was made and serve a copy on the local child support agency and any other party. Keep a copy of this motion for your records.*

1. To: ☐ Petitioner ☐ Respondent ☐ Local Child Support Agency ☐ Other (*specify*):

A hearing on this will be held as follows (see *instructions on how to get a hearing date*):

a. Date: Time: Dept.: Div.: Room:

b. Address of court: ☐ same as noted above ☐ other (specify):

2. I am asking the court to cancel (set aside) the child support order in this case.

3. I am asking the court to issue another order because the current order is based on a presumed income that is greater than the actual income.

4. ☐ Attached is an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years.

5. ☐ My address and telephone number for receipt of all notices and court dates are as follows:

Address:

City, state and zip code:

Home telephone:

Work telephone:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, before the hearing, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and recommendations to a judge. However, if you object to the commissioner acting as a temporary judge, an order will not be made until a judge reviews your case.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is *(specify)*:

3. I served a copy of the foregoing *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* and all attachments as follows *(check either a or b for each person served)*:
 - a. ☐ **Personal delivery.** I personally delivered a copy and all attachments as follows:

(1) <input type="checkbox"/> Name of party or attorney served:	(2) <input type="checkbox"/> Name of local child support agency served:
(a) Address where delivered:	(a) Address where delivered:
(b) Date delivered:	(b) Date delivered:
(c) Time delivered:	(c) Time delivered:
 - b. ☐ **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope and
 - (a) ☐ **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) ☐ Name of party or attorney served:
 - (3) ☐ Name of local child support agency served:

(a) Address where delivered:	(a) Address where delivered:
(b) Date mailed:	(b) Date mailed:
(c) Place of mailing <i>(city and state)</i> :	(c) Place of mailing <i>(city and state)</i> :
 - c. ☐ **Other *(specify code section)*:**
☐ Additional page is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (TYPE OR PRINT NAME)		<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> (SIGNATURE OF PERSON WHO SERVED REQUEST)
--	--	--

INFORMATION SHEET FOR NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME

These instructions are for parties other than the local child support agency. Please follow these instructions to complete the *Notice and Motion to Cancel (Set Aside) Support Order* (form FL-640) if you do not have a lawyer to represent you. If you have a lawyer, he or she will complete this form.

This form should be used only if your support order was based on presumed income and the presumed income is greater than your actual income. If you are not sure whether your order is based on presumed income, look at your copy of the *Judgment Regarding Parental Obligations* (form FL-630). If the box for item 3 on the front of the judgment is checked, your support amount is based on presumed income. If it is not checked, your support amount is based on income information that was available then, and you should not use this form (FL-640). If you do not have a copy of the judgment, you can get one from either the court clerk or the local child support agency office.

You must file the completed motion form and attachments with the court clerk within one year of the date of the first collection of support. The address of the court clerk is the same as the one shown for the superior court on the *Judgment Regarding Parental Obligations* (form FL-630). You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it. For more information about the filing fee and waiver of the filing fee, contact the court clerk. **Keep three copies of the filed motion form and its attachments. Serve one copy on the local child support agency and one copy on the other party.** (See *Information Sheet for Service of Process*, form FL-611.) **The third copy is for your records.**

INSTRUCTIONS FOR COMPLETING THE NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME FORM (TYPE OR PRINT FORM IN BLACK INK):

Page 1, first box, top of form, left side: Print your name, address, and telephone number in this box if they are not already there.

Page 1, second box, left side: Print your county's name and the court's address in this box. Use the same address for the court that is on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, first box, top of form, right side: Leave this box blank for the court's use.

Page 1, second box, right side: Print your case number in this box. This number is also on the *Judgment Regarding Parental Obligations* (form FL-630).

1. You must contact the court clerk's office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
- 2–3. These sections are asking the court to cancel your child support order and issue another one based on your actual income.
4. **Attach a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years. Also, check the local rules of court for any local requirements.**
5. You must list the address and phone numbers where you can receive all notices and court dates. You must let the court know whenever your address changes. If the court does not have your current address, you may not receive important notices that affect you.

At the bottom of page 1, you must date the form, print your name, and sign the form under a penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Page 2, box on left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the front page.

Page 2, box on right side: Print your case number in this box. Use the same number as on the front page. Instructions for completing the *Proof of Service* section of the motion form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachments must fill out this section of the form. **You cannot serve your own motion.**

1. **This matter proceeded as follows:** ☐ Uncontested ☐ By stipulation ☐ Contested

a. Date: _____ Time: _____ Department: _____

b. Judicial officer (*name*): ☐ Judge Pro Tempore ☐ Commissioner
Court reporter (*name*): _____
Court clerk (*name*): _____
Bailiff (*name*): _____

c. ☐ Interpreter(s) present (*name*): _____

d. ☐ Petitioner present ☐ Attorney present (*name*): _____

e. ☐ Respondent present ☐ Attorney present (*name*): _____

f. ☐ Other parent present ☐ Attorney present (*name*): _____

g. Attorney for local child support agency (*name*): _____

h. The obligor (the parent ordered to pay support) for purposes of this order is
☐ Petitioner ☐ Respondent ☐ Other parent

i. ☐ Other (*specify*): _____

3. a. ☐ This matter is taken off calendar

b. ☐ This entire matter is denied ☐ with ☐ without prejudice

c. ☐ This matter is continued at the request of the
☐ local child support agency ☐ petitioner ☐ respondent ☐ other parent to:

Date: _____ Time: _____ Department: _____

(Specify issues): _____

d. ☐ The court takes the following matters under submission (*specify*):

The ☐ petitioner ☐ respondent ☐ other (specify):
was sworn and examined. ☐ Examination was held outside of court.

a. ☐ The parties are referred to the Family Court Services Mediator.

b. ☐ Mother ☐ Father is referred to the Family Law Facilitator.

c. ☐ Other (specify): _____

Form Approved for Court Use in lieu of Mandatory Forms
FL-615, FL-625, FL-665, and FL-687
Judicial Council of California
FL-692 [Rev. July 1, 2004]

PETITIONER/PILAINIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

9. ☐ Respondent ☐ Petitioner ☐ Other parent
 has read, understands, and has signed the *Advisement and Waiver of Rights for Stipulation* (form FL-694) attachment.
 He or she gives up those rights and freely agrees that a judgment may be entered in accordance with these findings.
10. a. Guideline support amount: \$
- b. This order ☐ is ☐ is not based on the Guideline.
- c. ☐ The attached *Guideline Findings Attachment* (form FL-693) is incorporated into these findings.
- d. ☐ A printout, which shows the calculation of child support payable, is attached and must become the court's findings.
- e. ☐ The child support agreed to by the parents is ☐ below ☐ above the statewide child support guideline.
 The amount of support that would have been ordered under the guideline formula is \$ _____ per month. The parties
 have been fully informed of their rights concerning child support. Neither party is acting out of duress or coercion. Neither
 party is receiving public assistance, and no application for public assistance is pending. The needs of the children will be
 adequately met by this agreed-upon amount of child support. The order is in the best interest of the children. If the order is
 below the guideline, no change of circumstances will be required to modify this order. If the order is above the guideline, a
 change of circumstances will be required to modify this order.
- f. ☐ The support order was reduced pursuant to the low-income adjustment.
11. ☐ Arrearages from (specify date): _____ through (specify date): _____
 are \$ _____ ☐ including interest ☐ interest not computed.

THE COURT ORDERS

12. All orders previously made in this action must remain in full force and effect except as specifically modified below.
13. ☐ Genetic testing must be coordinated by the local child support agency.
- a. ☐ Respondent ☐ Petitioner ☐ Mother of the children
☐ Other (specify): _____
 and the minor children must each submit to genetic testing as directed by the local child support agency.
- b. ☐ Obligor must reimburse the local child support agency for genetic testing costs of \$ _____
14. a. ☐ Obligor is the parent of the following children and must pay current child support for them:
☐ There is sufficient evidence that the obligor is the parent of the following children to enter a support order and must pay
 current child support for them:
- | Name | Date of birth | Monthly basic support amount | Child-care costs |
|------|---------------|------------------------------|------------------|
|------|---------------|------------------------------|------------------|

- ☐ Additional children are listed on an attached page.
- b. ☐ Obligor must pay additional support monthly for child-care costs:
- | | | | |
|--|-----------------------------------|---|---|
| <input type="checkbox"/> (specify amount): \$ _____ | <input type="checkbox"/> one-half | <input type="checkbox"/> (specify percent): _____ | percent of said costs. |
| Payments must be made to <input type="checkbox"/> local child support agency | | <input type="checkbox"/> other party | <input type="checkbox"/> child-care provider. |
- c. ☐ Obligor must pay reasonable uninsured health-care costs for the children:
- | | | | |
|--|-----------------------------------|---|---|
| <input type="checkbox"/> (specify amount): \$ _____ | <input type="checkbox"/> one-half | <input type="checkbox"/> (specify percent): _____ | percent of said costs. |
| Payments must be made to <input type="checkbox"/> local child support agency | | <input type="checkbox"/> other party | <input type="checkbox"/> child-care provider. |
- d. ☐ Obligor must pay additional support monthly for the following (specify):
- | | | | |
|--|-----------------------------------|---|--|
| <input type="checkbox"/> (specify amount): \$ _____ | <input type="checkbox"/> one-half | <input type="checkbox"/> (specify percent): _____ | |
| Payments must be made to <input type="checkbox"/> local child support agency | | <input type="checkbox"/> other party | |
- e. ☐ Other (specify): _____
- f. ☐ For a total of: \$ _____ payable on the (specify): _____ percent of said costs.
 beginning (date): _____ day of each month
- g. ☐ Low-income adjustment applied.
- h. Any support ordered will continue until further order of court, unless terminated by operation of law.

NOTICE: Any party required to pay child support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent per year.



PETITIONER/PILAINIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

15. ☐ The obligor may claim the children for tax purposes as long as all child support payments are current as of the last day of the year for which the exemptions are claimed.
16. ☐ Petitioner ☐ Respondent must pay to ☐ Petitioner ☐ Respondent as
☐ spousal support ☐ family support \$ _____ per month, beginning
☐ payable on the (specify): _____ (date): day of each month.
17. ☐ Obligor must pay child support for past periods and in the amounts set forth below:
- | <u>Name</u> | <u>Period of support</u> | <u>Amount</u> |
|-------------|--------------------------|---------------|
| | | |
| | | |
| | | |
| | | |
- a. ☐ Other (specify): _____
- b. ☐ For a total of: \$ _____ payable on the (specify): _____ day of each month.
beginning (date): _____
- c. ☐ Interest accrues on the entire principal balance owing and not on each installment as it becomes due.
18. ☐ Obligor owes support arrears as follows, as of (date): _____
- a. ☐ Child support: \$ _____ ☐ Spousal support: \$ _____ ☐ Family support: \$ _____ ☐ Other: \$ _____
- b. ☐ Interest is not included and is not waived.
- c. ☐ Payable: _____ on the (specify): _____ day of each month.
beginning (date): _____
- d. ☐ Interest accrues on the entire principal balance owing and not on each installment as it becomes due.
19. No provision of this judgment operates to limit any right to collect all sums owing in this matter as otherwise provided by law.
20. All payments except as otherwise ordered must be made to (name and address of agency): _____
21. **An earnings assignment order is issued.**
22. ☐ Obligor ☐ Obligee must (1) provide and maintain health insurance coverage for the children if it is available through employment or a group plan, or otherwise at no or reasonable cost, and must keep the local child support agency informed of the availability of the coverage; (2) if health insurance is not available, provide coverage when it becomes available; (3) within 20 days of the local child support agency's request, complete and return a health insurance form; (4) provide to the local child support agency all information and forms necessary to obtain health-care services for the children; (5) present any claim to secure payment or reimbursement to the other parent or caretaker who incurs costs for health care services to the children; (6) assign any rights to reimbursement to the other parent or caretaker who incurs costs for health-care services for the children. If the "Obligor" box is checked, a *National Medical Support Notice* is issued.
23. ☐ **JOB SEARCH**
☐ Mother ☐ Father must seek employment for at least _____ jobs per week and report those job applications and results to the court and the local child support agency at the continuance date. These job applications are to be made in person, not by phone, fax, or e-mail.
24. ☐ For purposes of the licensing issue only, the obligor is found to be in compliance with the support order in this action. The local child support agency must issue a release of license number _____ and send it to the appropriate licensing agency and obligor.
25. ☐ Obligor is not in compliance with the support order in this action; however, the needs of the obligor warrant a conditional release. The local child support agency must issue a release of license number _____ and send it to the appropriate licensing agency and obligor. Such release must be effective only as long as the obligor complies with all payment terms of this order.

PETITIONER/PILAINIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

26. ☐ A warrant of attachment/bench warrant must issue for *(specify name)*:
- a. ☐ Bail is set in the amount of *(specify amount)*: \$
- b. ☐ Service is stayed until *(specify date)*:
27. ☐ The court retains jurisdiction to make orders retroactive to *(specify date)*:
28. ☐ The court reserves jurisdiction over ☐ all issues ☐ the issues of *(specify)*:
29. The parents must notify the local child support agency in writing within 10 days of any change in residence or employment.
30. The *Notice of Rights and Responsibilities* and *Information Sheet on Changing a Child Support Order* are attached and incorporated.
31. ☐ The following person (the "other parent") is added as a party to this action under Family Code sections 17400 and 17406 *(specify name)*:
32. ☐ The court further orders *(specify)*:

33. ☐ Number of pages attached: _____

Approved as conforming to court order:	
Date:	
	_____
	(SIGNATURE OF ATTORNEY FOR OBLIGOR)
	_____
	(SIGNATURE OF ATTORNEY FOR LOCAL CHILD SUPPORT AGENCY)

Date:

JUDICIAL OFFICER

☐ Signature follows last attachment

NOTICE OF RIGHTS AND RESPONSIBILITIES

Health-Care Costs and Reimbursement Procedures

IF YOU HAVE A CHILD SUPPORT ORDER THAT INCLUDES A PROVISION FOR THE REIMBURSEMENT OF A PORTION OF THE CHILD'S OR CHILDREN'S HEALTH-CARE COSTS AND THOSE COSTS ARE NOT PAID BY INSURANCE, THE LAW SAYS:

1. NOTICE. You must give the other parent an itemized statement of the charges that have been billed for any health-care costs not paid for by insurance. You must give this statement to the other parent within a reasonable time, but no more than 30 days after those costs were given to you.

2. PROOF OF FULL PAYMENT. If you have already paid all of the uninsured costs, you must (1) give the other parent proof that you paid them and (2) ask for reimbursement for the other parent's court-ordered share of those costs.

3. PROOF OF PARTIAL PAYMENT. If you have paid only your share of the uninsured costs, you must (1) give the other parent proof that you paid your share, (2) ask that the other parent pay his or her share of the costs directly to the health-care provider, and (3) give the other parent the information necessary for that parent to be able to pay the bill.

4. PAYMENT BY NOTIFIED PARENT. If you receive notice from a parent that an uninsured health-care cost has been incurred, you must pay your share of that cost within the time the court orders; or, if the court has not specified a period of time, you must make payment either (1) within 30 days from the time you were given notice of the amount due, (2) according to any payment schedule set by the health-care provider, (3) according to a schedule agreed to in writing by you and the other parent, or (4) according to a schedule adopted by the court.

5. DISPUTED CHARGES. If you dispute a charge, you may file a motion in court to resolve the dispute, but only if you pay that charge before filing your motion. If you claim

that the other party has failed to reimburse you for a payment, or the other party has failed to make a payment to the provider after proper notice has been given, you may file a motion in court to resolve the dispute. The court will presume that if uninsured costs have been paid, those costs were reasonable. The court may award attorney fees against a party who has been unreasonable.

6. COURT-ORDERED INSURANCE COVERAGE. If a parent provides health-care insurance as ordered by the court, that insurance must be used at all times to the extent that it is available for health-care costs.

- a. Burden to prove. The party claiming that the coverage is inadequate to meet the child's needs has the burden of proving that to the court.
- b. Cost of additional coverage. If a parent purchases health-care insurance in addition to that ordered by the courts, that parent must pay all the costs of the additional coverage. In addition, if a parent uses alternative coverage, which costs more than the coverage provided by court order, that parent must pay the difference.

7. PREFERRED HEALTH PROVIDERS. If the court-ordered coverage designates a preferred health-care provider, that provider must be used at all times consistent with the terms of the health insurance policy. When any party uses a health-care provider other than the preferred provider, any health-care costs that would have been paid by the preferred health provider had that provider been used must be the sole responsibility of the party incurring those costs.

AVISO SOBRE DERECHOS Y RESPONSABILIDADES

Procedimiento relativo a costos de salud y devolución de dichos costos

Si usted tiene una orden de manutención de menores que disponga la devolución de costos incurridos por servicios de salud para menores y costos no cubiertos por el seguro médico, la ley dice lo siguiente:

1. Aviso. Se debe dar al otro padre una factura detallada relacionando los costos cobrados por servicios de salud que no estén cubiertos por seguro médico. Esta factura se le debe dar al otro padre con antelación razonable y no más tarde de 30 días después de haber recibido dichos cobros de pago.

2. Comprobante de pago total. Si usted ya pagó todos los costos de salud correspondientes a individuos no asegurados, deberá: (1) proporcionar al otro padre el comprobante de haber pagado y (2) pedirle al otro padre que le pague la porción de los costos que al otro padre le corresponda, según la orden del tribunal.

3. Comprobante de pago parcial. Si sólo pagó su porción de los costos no cubiertos por el seguro, debe: (1) darle al otro padre un comprobante indicando que ya pagó dicha porción, (2) pedir al otro padre que pague directamente al proveedor de servicios médicos la parte de los costos que al otro padre le corresponda y (3) darle al otro padre la información necesaria para que pague la factura.

4. Pago que le corresponde al padre notificado. Si usted recibe notificación del otro padre indicando costos incurridos por servicios de salud para individuos sin seguro, deberá pagar la porción que le corresponde a usted dentro del plazo ordenado por el tribunal, o si el tribunal no especifica un plazo, usted deberá pagar dichos costos, ya sea, (1) a más tardar en 30 días, desde la fecha en que recibió la notificación sobre los costos por pagar, (2) según un horario acordado por escrito entre usted y el otro padre o (4) según el horario adoptado por el tribunal.

5. Cuando se disputan los costos. Si usted disputa un costo, puede presentar al tribunal una moción (o pedimento) para resolver la disputa. Sólo podrá hacer esto, si paga el costo antes de presentar la moción. Si su reclamo consiste en que la otra parte no le ha pagado a usted por un costo, o que no le ha pagado

al proveedor de servicios de salud después de la notificación apropiada, usted puede presentar una moción ante el tribunal para resolver la disputa. El tribunal asumirá que si los costos ya se han pagado, dichos costos han sido razonables. Si una persona se comporta de una manera que no sea razonable, el tribunal puede imponerle que pague honorarios de abogado.

6. Cobertura de seguro por orden de tribunal. Si un padre tiene seguro de salud por orden del tribunal, ese seguro se usará todo el tiempo, siempre que esté disponible para cubrir los costos de servicios de salud.

a. Responsabilidad de comprobar. La responsabilidad de comprobar ante el tribunal que la cobertura de servicios de salud es inadecuada para los menores recae sobre la parte que reclama que es inadecuada.

b. Costos de cobertura adicional. Si uno de los padres compra un seguro de salud adicional al que haya sido ordenado por el tribunal, dicho padre deberá pagar todo el costo de la cobertura adicional. Y si uno de los padres usa una manera alterna para cubrir gastos médicos que cueste más que la cobertura dispuesta por el tribunal, dicho padre tendrá que pagar la diferencia.

7. Proveedor preferido para servicios de salud.

Si la orden del tribunal especifica un proveedor preferido para servicios de salud, dicho proveedor deberá usarse siempre, según los términos de la póliza del seguro de salud. Si una de las partes decide usar un proveedor que no sea el preferido e incurre costos que podrían haber sido cubiertos por el proveedor preferido si se hubieran utilizado sus servicios, dicha parte asumirá la responsabilidad de cubrir los costos incurridos.

INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER

General Information

The court has just made a child support order in your case. This order will remain the same unless a party to the action requests that the support be changed (modified). An order for child support can be modified only by filing a motion to change child support and serving each party involved in your case. If both parents and the local child support agency (if it is involved) agree on a new child support amount, you can complete, have all parties sign, and file with the court a *Stipulation to Establish or Modify Child Support and Order* (form FL-350) or *Stipulation and Order (Governmental)* (form FL-625).

When a Child Support Order May Be Modified

The court takes several things into account when ordering the payment of child support. First, the number of children is considered. Next, the net incomes of both parents are determined, along with the percentage of time each parent has physical custody of the children. The court considers both parties' tax filing status and may consider hardships, such as a child of another relationship. An existing order for child support may be modified when the net income of one of the parents changes significantly, the parenting schedule changes significantly, or a new child is born.

Examples

- You have been ordered to pay \$500 per month in child support. You lose your job. You will continue to owe \$500 per month, plus 10% interest on any unpaid support, unless you file a motion to modify your child support to a lower amount and the court orders a reduction.
- You are currently receiving \$300 per month in child support from the other parent, whose net income has just increased substantially. You will continue to receive \$300 per month unless you file a motion to modify your child support to a higher amount and the court orders an increase.
- You are paying child support based upon having physical custody of your children 30% of the time. After several months it turns out that you actually have physical custody of the children 50% of the time. You may file a motion to modify child support to a lower amount.

How to Modify an Existing Child Support Order

1. **Obtain and fill out the modification forms.** The forms are available from the court clerk, a Family Law Facilitator, your local law library, the Judicial Council's Web site (www.courtinfo.ca.gov), and various legal publishers. You will need to complete the following forms:
 - *Order to Show Cause* (form FL-300) or *Notice of Motion* (form FL-30 1) and *Application for Order and Supporting Declaration (Family Law Uniform Parentage)* (form FL-310) or *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal or Family Support* (form FL-390) or *Order to Show Cause (Governmental)* (form FL-683) or *Notice of Motion (Governmental)* (form FL-680), or *Request for Order and Supporting Declaration (Governmental)* (form FL-684) if your case is open with the local child support agency.
 - *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155).
2. **File the forms and obtain a hearing date from the court clerk. Write the hearing date on the modification forms. You will have to pay a filing fee. If you cannot afford a filing fee you can request a waiver of it by filing an *Application for Waiver of Court Fees and Costs* (form 982(a)(17)).**
3. **"Serve" the modification forms on the other parent and, if it is involved, the local child support agency.** "Service" means "legally" delivering a copy of the papers. The forms generally must be served no later than 21 calendar days before the hearing if they are delivered in person. The delivery can normally be done by mail, but then it must be done at least 26 calendar days before the hearing. All service must be done by a person **other than you** who is at least age 18. This person must serve all papers you completed for the court as well as a blank *Responsive Declaration to Order to Show Cause* or *Notice of Motion* (form FL-320) and blank *Income and Expense Declaration (Family Law)* (form FL-1 50) or *Financial Statement (Simplified)* (form FL- 155).
4. **File a *Proof of Service* (form FL-330 or FL-335) with the court clerk that the court papers were served on the other parent and, if it is involved, the local child support agency.**
5. **Attend the court hearing.** Bring your latest federal tax return and your last two months pay stubs to the court hearing. The judge will review your modification forms and the other parent's response, listen to both of you, and make an order. You should then prepare a *Findings and Order After Hearing* (form FL-340) with *Child Support Information and Order Attachment* (form FL-342).

If you cannot complete these forms by yourself help is available. Contact the Family Law Facilitator in your county or the Lawyer Referral Service of your local bar association, or consult the Yellow Pages of your telephone book under "Attorneys."

INFORMACIÓN SOBRE CÓMO CAMBIAR UNA ORDEN JUDICIAL SOBRE MANUTENCIÓN DE MENORES

Información general

El tribunal acaba de dar una orden judicial sobre manutención de menores en esta causa. Esta orden permanecerá en efecto, a menos que alguna de las partes de la causa pida que se modifique. Sólo se puede modificar una orden de manutención de menores si se presenta ante el tribunal una moción (o pedimento) sobre modificación de manutención y si se da una copia de dicha moción a las partes interesadas en la causa. Si ambos padres llegan a un común acuerdo sobre una suma y si la agencia local que vigila la manutención de menores también acepta el acuerdo (si dicha agencia participa), se puede llenar y hacer que cada una de las partes firme una *Estipulación para Establecer o Modificar una Orden de Manutención de Menores* (formulario FL-350) o llenar y hacer que cada una de las partes firme una *Estipulación y Orden (Documento gubernamental)* (formulario FL-625).

¿Cuándo se puede modificar una orden de manutención de menores?

El juez toma varios factores en consideración cuando emite una orden judicial sobre el pago de manutención de menores. Primero, considera, el número de hijos. Luego, determina los ingresos de ambos padres y el porcentaje del tiempo que cada padre asume la custodia física de los hijos. El tribunal estudia el estado tributario (pago de impuestos) de ambas partes y puede tener en cuenta factores de dificultad económica, tales como la existencia de hijos de otra relación. Se puede modificar la orden sobre manutención de menores si ocurre un cambio considerable en los ingresos netos de uno de los padres, un cambio considerable en el tiempo que los menores pasan con cada uno de los padres, o cuando nace un nuevo hijo.

Ejemplos:

Si a usted se le ha ordenado pagar \$500 mensuales de manutención de menores y luego pierde su empleo. Continuará debiendo \$500 mensuales, más el 10% de intereses sobre la suma de manutención debida, a menos que presente una moción pidiendo que se modifique y se reduzca la suma de manutención y que el tribunal ordene dicha reducción.

Si usted está recibiendo \$300 mensuales por manutención de menores provenientes del otro padre y los ingresos de ese padre aumentan considerablemente, usted continuará recibiendo \$300 mensuales, a menos que usted presente una moción para modificar la orden y que el tribunal ordene el aumento de la suma de manutención de menores.

Si paga manutención de menores basándose en que pasa un 30% de tiempo asumiendo la custodia parcial de sus hijos y después de varios meses, resulta que en efecto pasa el 50% del tiempo a cargo de la custodia física de sus hijos, en dado caso, podrá presentar una moción pidiendo que se reduzca la suma de manutención.

¿Cómo modificar una orden judicial existente sobre manutención de menores?

1. Obtenga y llene los formularios para pedir las modificaciones. Puede pedirlos en la secretaría del tribunal o se los puede pedir al asesor legal del tribunal de familia. También, puede encontrar los formularios en la página de Internet del Concejo Judicial (www.courtinfo.ca.gov) o puede comprarlos a diversos editores de materiales legales. Los siguientes son los formularios que hay que llenar:

- *Orden para dar Razones* (formulario FL-300) o *Aviso de Moción* (formulario FL-301) y *Solicitud para Orden y Declaración Que respalda la solicitud* (formulario FL-310) o *Aviso de Moción y Moción Simplificada para Modificación de Orden de Manutención de Menores* (formulario FL-390) o *Orden para dar Razones (Documento gubernamental)* (formulario FL-683) o *Aviso de Moción (Documento gubernamental)* (formulario FL-680) o *Petición para Orden y Declaración que respalda la Petición (Documento gubernamental)* (formulario FL-684), si su caso está abierto en la agencia local que vigila la manutención de menores.

- *Declaración de Ingresos y Gastos* (formulario FL-150) o *Declaración Financiera (Simplificada)* (formulario FL-155).

2. Presente los formularios en la secretaría del tribunal y pida una fecha de audiencia. Escriba la fecha de la audiencia en los formularios que piden las modificaciones. Tendrá que pagar al presentar los documentos en la secretaría. Si no tiene los medios para pagar, puede pedir que le exoneren del pago llenando el formulario *Solicitud para Exoneración de Costos de Tribunal* (formulario 982(a)(17)).

3. "Entregue la notificación" de los formularios de modificación. Entregue dicha notificación al otro padre y a la agencia local que vigila la manutención de menores, si dicha agencia participa en el caso.

"Entregar la notificación" significa hacer entrega de una copia de los documentos, "según lo pide la ley". Si la notificación se entrega en persona, normalmente debe hacerse a más tardar 21 días calendarios antes de la audiencia. Por lo general, la notificación se puede entregar por correo, pero en ese caso, debe enviarse a más tardar 26 días calendarios antes de la audiencia. De todas maneras, la entrega la tiene que hacer una persona que tenga por lo menos 18 años de edad y que no sea usted mismo. Quien entregue la notificación debe entregar también todos los documentos que usted haya presentado al tribunal y entregar además un formulario en blanco de *Contestación a Una Orden Judicial* (formulario FL-320) y un formulario en blanco de *Declaración de Ingresos y Gastos (Tribunal de Familia)* (formulario FL-150) o un formulario de *Declaración Financiera (Simplificada)* (formulario FL-155).

4. Presente en la secretaría del tribunal el *Comprobante de Notificación* (formularios FL-330 o FL-335) para comprobar que los documentos fueron entregados al otro padre y a la agencia local que vigila la manutención de menores, si dicha agencia participa.

5. Asista a la audiencia ante el tribunal.

Traiga a la audiencia ante el tribunal sus dos últimas declaraciones de impuestos y sus tres talonarios de pago más recientes.

El juez estudiará los formularios que piden la modificación y la respuesta del otro padre, escuchará a ambas partes y emitirá una orden judicial. A usted le corresponde luego preparar el formulario *Conclusiones y Orden Posterior a la Audiencia* (formulario FL-340) con el Anexo *Información y Orden Sobre Manutención de Menores* (formulario FL-342).

Si no puede llenar estos formularios por sí mismo, puede pedir ayuda. Vaya donde el asesor legal del tribunal de familia de su condado, consulte la lista de referencias del colegio de abogados local o busque en las "páginas amarillas" del directorio telefónico bajo la palabra "attorneys" que significa "abogados" en inglés.